IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 3097 (S/S) OF 2001
(Stay Application No. 2048 of 2006)

1. Pitamber Malkani S/o Sri Prem Ballabh Malkhani R/o E.M. Division, P.W.D. Haldwani,Nainital.
2. M.S. Rana S/o Sri P.S. Rana, Wireman P.W.D., Nainital Club District Nainital.
3. Brijlal, S/o Sri Chan Ram, Roller Forman, P.W.D. Bhowali District Nainital.
4. Suresh Chandra Pandey, Electrician C/o Asstt. Engg. P.W.D. Nainital.
5. Laxman Singh Electrical C/o Asstt. Engg. II P.W.D., Nainital

.....Petitioners

Versus

1. State of Uttaranchal through Secretary PWD Govt. of Uttaranchal, Dehrdun.
2. Joint Secretary, P.W.D., U.P. (Lucknow)
3. Pramukh Abhiyanta P.W.D. U.P. Lucknow.
4. Chief Engineer, P.W.D. U.P., Lucknow.
5. Executive Engineer, P.W.D., Haldwani Nainital, Bhowali District Nainital.

.....Respondents

02.03.2006

Sri S.S. Yadav, learned counsel for the petitioners.
Sri N.C. Gupta, learned counsel for the respondent No.5
Learned standing counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri S.S. Yadav, Learned counsel for the petitioners and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the orders annexed as annexures No. 5, 6 to 6D and 8 to the writ petition by which the salary of the petitioners have been reduced and further they have prayed for staying the operation of the recovery orders passed by respondents No. 4 & 5 against the petitioners. Petitioners have referred the judgment, passed by the Tribunal.

Briefly stated that petitioners were the regular employees of the Public Work Department of U.P. working in different trade

from before 1986 and were getting Basic Scale of Pay Rs.825-15-900/20-1200 till 1993. When the recommendation of the Samata Committee was accepted by the Govt. of U.P. and all the departments were directed to implement the same accordingly. Petitioner has submitted that due to error in fixing of pay scale, the respondent No. 5 had started deducting the salary of petitioners since 19.05.01 and started to pay in the scale of Rs.825-1200 instead of pay scale of Rs.950-1500.

The petitioners have filed the representation before the Tribunal alongwith annexures with certified copy. The service Tribunal has decided the same alongwith other connecting matters.

The counter affidavit and rejoinder affidavit has been exchanged. The learned counsel has also referred the interim order passed by Hon'ble Allahabad High Court, Lucknow Bench in Civil Writ Petition No. 1236 (S/B) 2000 U.P. Govt. Vs. Mohan Chandra Bhatt & others for the payment of the salary to the petitioners of Niredesh writ No. 922/98 Mohan Chandra Bhatta Vs. State of U.P. & others.

In view of the above, the writ petition is not maintainable under Article 226 & 227 of the Constitution of India.

The respondent No. 5 is directed to pay the regular salary to the petitioners and in the meantime the effect of the order dated 22.03.2001 shall kept in abeyance.

The matter shall be adjudicated by the State Tribunal Uttaranchal (Nainital Bench). The Tribunal shall decide the case within a period of 6 weeks from the production of certified copy of the order.

Consequently, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

02.03.2006
Jain